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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,977	03/22/2004	Kevin T. Carle	MS1-1925US	2251
22801	7590	12/22/2009		
LEE & HAYES, PLLC 601 W. RIVERSIDE AVENUE SUITE 1400 SPOKANE, WA 99201			EXAMINER TAYLOR, JOSHUA D	
			ART UNIT 2426	PAPER NUMBER
			NOTIFICATION DATE 12/22/2009	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

# Office Action Summary

**Application No.**

10/806,977

**Applicant(s)**

CARLE ET AL.

**Examiner**

JOSHUA TAYLOR

**Art Unit**

2426

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 October 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16, 18-21 and 30-34 is/are pending in the application.
- 4a) Of the above claim(s) 30, 31, 33 and 34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16, 18-21 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

#### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 7, 2009 has been entered.
2. The Final Office Action of September 2, 2009 is fully incorporated into this Office Action by reference.

#### ***Status of Claims***

3. Claims 16, 18-21 and 32 are pending. Claims 30, 31, 33 and 34 are withdrawn from consideration.

#### ***Election/Restrictions***

4. Newly amended claims 30 and 31 and newly added claims 33 and 34 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claim 30 recites "override household configuration information," a term or concept which has not been used in previous iterations of this invention, as well as "permitting the display of content which the household configuration information prohibits," which is another term or concept which has not been used in previous iterations of this invention, and further

recites displaying or prohibiting content based upon certain configuration information, a third concept which has not been used in previous iterations of this invention. Claim 33 recites displaying or prohibiting content based upon certain configuration information, a concept which has not been used in previous iterations of this invention. Claim 34 recites “overriding household configuration information,” a term or concept which has not been used in previous iterations of this invention. Such language moves said claims out of the subclass of 725/115, in which the originally presented invention resides, and into subclass 725/25.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 30, 31, 33 and 34 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16, 18-21 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dudkiewicz (Pub. No.: US 2004/0177370) in view of Florence (Pub. No.: US 2002/0188948).

Examiner's Note (EN): ¶10. below applies.

Regarding claim 16, Dudkiewicz discloses **a method comprising: receiving an identifier from a client device at a first configuration server**, the client device having the capability to store more than one identifier (Figs. 1 and 4, para. [0025]), **the identifier uniquely identifying a viewer profile from other viewers' profiles in the household** (para. [0025]); **receiving a first request for configuration information associated with the client device from the client device at the first configuration server each time the client device is to perform a task which requires application of the configuration information associated with the client device** (Figs. 5-10, paras. [0040]-[0043]. In the second embodiment, Dudkiewicz discloses that processing is performed at the multiple service operator (MSO).); **identifying the requested configuration information associated with the client device based on the received identifier** (Fig. 1, "Profile ID," para. [0025]), **wherein the requested configuration information differs from configuration information associated with the other viewers' profiles in the household** (para. [0025]. Different viewers can have different profiles.); **communicating the requested configuration information to the client device from the first configuration server** (paras. [0040]-[0050]); **communicating video data to the client device for display on a display device** (Fig. 4, para. [0034]); **receiving a second request for configuration information associated with the client device from a second configuration server** (Fig. 4, elements 22, 32, 24 and 34, para. [0036]); **and communicating the requested configuration information to the second configuration server from the first configuration server** (Fig. 4, elements 10, 16, 22 and 32, para. [0036]). Although Dudkiewicz discloses wherein the client device has the capability to store more than one identifier, wherein said identifier uniquely identifies a viewer (para. [0025]), Dudkiewicz does not explicitly disclose **the**

**client device being one of a plurality of client devices in a household, or the identifier uniquely identifying the client device from the other client devices in the household.**

However, in analogous art, Florence discloses saving multiple channel favorites tables, so that multiple viewers from a single STB or multiple viewers from multiple STBs may each have his or her own channel favorites table (Fig. 8, para. [0060]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dudkiewicz to allow for multiple client devices in a household, and further for a unique identifier to identify a client device with an associated user, in addition to identifying the users themselves. This would have produced predictable and desirable results, in that as multiple client devices, namely set-top boxes, in a house has become common, as taught by Florence, identifying the unique device that a viewer is currently using would ensure that said viewer received the correct profile information.

Regarding claim 18, Dudkiewicz discloses **further comprising receiving modified configuration information from the client device at the first configuration server** (para. [0043]).

Regarding claim 19, Dudkiewicz discloses **further comprising storing the modified configuration information at the first configuration server** (para. [0043]).

Regarding claim 20, Dudkiewicz discloses **further comprising communicating the modified configuration information to the client device from the first configuration server during subsequent requests for configuration information from the client device** (paras. [0040]-[0050]).

Regarding claim 21, Dudkiewicz discloses **one or more computer-readable memories containing a computer program that is executable by a processor** (para. [0056]), and the combined teachings as stated above disclose **performing the method recited in claim 16**.

Regarding claim 32, Dudkiewicz discloses **a method comprising: receiving an identifier from a client device at a first configuration server, the identifier uniquely identifying a viewer profile from the other viewers' profiles in the household** (Figs. 1 and 4, para. [0025]); **receiving a first request for configuration information associated with the viewer profile from the client device at the first configuration server each time the client device is to perform a task which requires application of the configuration information associated with the client device** (Figs. 5-10, paras. [0040]-[0043]. In the second embodiment, Dudkiewicz discloses that processing is performed at the multiple service operator (MSO).); **identifying the requested configuration information associated with the client device based on the received identifier** (Fig. 1, "Profile ID," para. [0025]), wherein the requested configuration information which differs from configuration information associated with the other viewers' profiles in the household (para. [0025]. Different viewers can have different profiles.); **communicating the requested configuration information to the client device from the first configuration server** (paras. [0040]-[0050]); and **communicating video data to the client device for display on a display device** (Fig. 4, para. [0034]). Although Dudkiewicz discloses wherein the client device has the capability to store more than one identifier, wherein said identifier uniquely identifies a viewer (para. [0025]), Dudkiewicz does not explicitly disclose the client device being one of a plurality of client devices in a household, or the identifier uniquely identifying the client device from the other client devices in the

**household.** However, in analogous art, Florence discloses saving multiple channel favorites tables, so that multiple viewers from a single STB or multiple viewers from multiple STBs may each have his or her own channel favorites table (Fig. 8, para. [0060]). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Dudkiewicz to allow for multiple client devices in a household, and further for a unique identifier to identify a client device with an associated user, in addition to identifying the users themselves. This would have produced predictable and desirable results, in that as multiple client devices, namely set-top boxes, in a house has become common, as taught by Florence, identifying the unique device that a viewer is currently using would ensure that said viewer received the correct profile information.

#### ***Response to Arguments***

6. Applicant's argument, see page 7, filed October 7, 2009, with respect to the *35 USC § 112* rejection of claim 30 has been fully considered and are persuasive. The *35 USC § 112* rejection of claim 30 has been withdrawn.

Applicant's arguments with respect to claims 16 and 18-21 have been considered but are moot in view of the new grounds of rejection.



***Examination Considerations***

7. The claims and only the claims form the metes and bounds of the invention. “Office personnel are to give the claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d, 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969)” (MPEP p 2100-8, c 2, 145-48; p 2100-9, c 1, 11-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.
8. Examiner’s Notes are provided with the cited references to prior art to assist the applicant to better understand the nature of the prior art, application of such prior art and, as appropriate, to further indicate other prior art that maybe applied in other office actions. Such comments are entirely consistent with the intent and spirit of compact prosecution. However, and unless otherwise stated, the Examiner’s Notes are not prior art but a link to prior art that one of ordinary skill in the art would find inherently appropriate.
9. Unless otherwise annotated, Examiner’s statements are to be interpreted in reference to that of one of ordinary skill in the art. Statements made in reference to the condition of the disclosure constitute, on the face of it, the basis and such would be obvious to one of ordinary skill in the art, establishing thereby an inherent prima facie statement.
10. Examiner’s Opinion: ¶¶ 7.-9. apply. The Examiner has full latitude to interpret each claim in the broadest reasonable sense.

***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA TAYLOR whose telephone number is (571) 270-3755. The examiner can normally be reached on 8am-5pm, M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hirl can be reached on (571) 272-3685. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Josh Taylor/  
Examiner, Art Unit 2426

/Joseph P. Hirl/  
Supervisory Patent Examiner, Art Unit 2426  
December 17, 2009